

**STATE OF NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
DIVISION OF WATER QUALITY**

**STATE GENERAL PERMIT FOR IMPACTS TO ISOLATED AND  
OTHER NON-404 JURISDICTIONAL WETLANDS AND WATERS  
PERMIT NUMBER: IWGP100000**

**FOR PROJECTS IMPACTING LESS THAN ONE (1) ACRE OF ISOLATED  
AND OTHER NON-404 WETLANDS, LESS THAN  
TWO HUNDRED, FIFTY FEET (250) OF ISOLATED  
STREAMS AND/OR LESS THAN ONE-THIRD ACRE (1/3) OF  
ISOLATED SURFACE WATERS**

In accordance with the provision of Article 21 of Chapter 143, General Statutes of North Carolina as amended and other lawful standards and regulations, including 15A NCAC 2H .1300 and 15A NCAC 2B .0200, promulgated and adopted by the North Carolina Environmental Management Commission.

Permission is hereby granted to all owners or operators of activities which impact isolated and other non-404 wetlands, isolated streams or other isolated waters in accordance with the conditions set forth in this General Permit.

This General Permit shall become effective on October 31, 2008.

This General Permit shall expire at midnight on October 31, 2013 or unless otherwise rescinded or until deemed appropriate by the Director of the NC Division of Water Quality (DWQ).

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**Coleen H. Sullins, Director  
Division of Water Quality  
By the Authority of the  
NC Environmental Management Commission**

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This General Permit is issued in conformity with the requirements of North Carolina Division of Water Quality (DWQ) Regulations in 15A NCAC 2H, Section .1300 for the discharge of fill material to isolated and other non-404 wetlands and isolated waters of the State of North Carolina. This Permit may be rescinded when deemed appropriate by the Director of DWQ after appropriate public notice.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

## **Activities meeting any one (1) of the following criteria require *written approval* from the Division of Water Quality (the “Division”):**

- I. Isolated stream and/or buffer impacts:
  - a. Any impacts to isolated perennial waters (as depicted on the most recent USGS 1:24000 topographic map or as otherwise determined by the local government,) and their associated riparian buffers in Water Supply (WS), High Quality Water (HQW), or Outstanding Resource Water (ORW) watersheds. Only water-dependent activities, public projects, and structures with diminimus increases in impervious surfaces will be allowed as outlined in those rules [15A NCAC 2B .0212 through .0215]. All other activities require a variance from the delegated local government and/or the NC Environmental Management Commission before the application for the 401 Water Quality Certification can be processed.
  - b. Any impacts to isolated streams and buffers in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application [in accordance with 15A NCAC 2B .0200]), *unless* the activities are listed as “EXEMPT” from these Rules-
  - c. Any impacts to isolated streams involving excavation or dredging.
  - d. Total isolated stream impacts equal to or greater than 150 linear feet of intermittent and/or perennial stream to be filled, culverted, rip rapped, or relocated, including temporary and/or permanent impacts.
- II. Impacts to isolated lakes and ponds (temporary or permanent):
  - a. Equal to or greater than one-third (1/3) of an acre
- III. Impacts to isolated and other non-404 wetlands (temporary or permanent):
  - a. Equal to or greater than one-third (1/3) of an acre east of I-95
  - b. Equal to or greater than one-tenth (1/10) of an acre west of I-95
  - c. Any impacts to isolated and other non-404 wetlands adjacent to waters designated as: ORW, SA, WS-I, WS-II, or Trout, or wetlands contiguous to waters designated as a North Carolina or National Wild and Scenic River.
  - d. Proposed fill or substantial modification of any amount of isolated and other non-404 wetlands classified in accordance with 15A NCAC 2B .0101(e)(7) as Unique Wetlands (UWL)
- IV. If the activity is associated with or in response to a Notice of Violation or an enforcement action initiated by the Division and/or the Division of Land Resources.

## **Totaling and Reporting of Impacts:**

I. Isolated Streams - Impacts to isolated streams as determined by the Division of Water Quality shall be measured as the length of the centerline of the normal flow channel. Permanent and/or temporary stream impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used (if any). Stream relocations and streambed and/or bank hardening are considered to be permanent stream impacts. Any activity that results in a loss of use of stream functions including but not limited to filling, relocating, flooding, excavation, dredging and complete shading shall be considered stream impacts.

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Impacts to streams shall include streams enclosed by bottomless culverts, bottomless arches or other spanning structures unless the entire structure (including construction impacts) spans the entire bed and both banks of the stream, is only used for a road, driveway or path crossing, and is not mitered to follow the stream pattern. Impacts for dam footprints and flooding will count toward the threshold for stream impacts, but flooding upstream of the dam will not count towards mitigation requirements as long as no filling, excavation, relocation or other modification of the existing stream dimension, pattern or profile occurs. Any filling, excavation, relocation or other modification of the existing stream (other than flooding) must re-establish the same dimensions, patterns and profiles of the existing channel (or those of a stable reference reach if the existing channel is unstable)

II. Isolated Lakes and Ponds – Impacts to isolated waters other than streams and wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary water impacts shall be enumerated on the entire project for all impacts proposed regardless of which 404 Nationwide Permits are used (if any). Any activity that results in a loss of use of aquatic functions including but not limited to filling, draining, and dredging shall be considered waters impacts.

III. Isolated and Other Non-404 Wetlands - Impacts to isolated and other non-404 wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary wetland impacts shall be enumerated on the entire project for all impacts. Any activity that results in a loss of use of wetland functions including but not limited to filling, excavating, draining, and flooding shall be considered wetland impacts. Impacts to wetlands shall include activities that change the hydrology of a wetland.

Public Notice requirement – A separate Public Notice and Individual Permit will be required for all projects which propose to impact more than 250 linear feet of isolated streams, more than one (1) acre of isolated and other non-404 wetlands, or more than one-third (1/3) acre of other isolated waters in accordance with 15A NCAC 2H .1303. For impacts less than these thresholds, this General Permit is applicable without additional Public Notice.

In accordance with North Carolina General Statute Section 143-215.3D(e), any application for an Isolated Wetland General or Individual Permit must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted. This payment shall be the higher of the two fees.

**Activities that are below the thresholds, or otherwise do not meet the criteria listed above in this General Permit do *not* require written approval from the Division of Water Quality as long as they comply with the Conditions of Certification listed below, including the Stormwater Management Plan and Compensatory Mitigation conditions. If the project requires a Stormwater Management Plan, but is otherwise below the written approval thresholds, the applicant may provide a courtesy copy of the Pre-Construction Notification along with a copy of the Stormwater Management Plan (and approval letter from the appropriate locally delegated state program where applicable). Similarly, if collective wetland impacts, including 404 and non-404 wetlands, are equal to or greater than one (1) acre, compensatory mitigation is required (see attached examples “Wetland Impact Types and Compensatory Mitigation). If the project requires a mitigation plan, but is otherwise below the written approval thresholds for use of IWGP100000, the applicant may provide a courtesy copy of the Pre-Construction Notification along with a copy of the mitigation plan. If any of the following Conditions cannot be met, then written approval from the Division is required, and may require an Individual Permit.**

Conditions of Certification:

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1. No Impacts Beyond those Authorized in the Written Approval or Beyond the Threshold of Use of this Permit

No waste, spoil, solids, or fill of any kind shall occur in isolated and other non-404 wetlands, isolated waters, or isolated riparian areas beyond the footprint of the impacts depicted in the Pre-Construction Notification and authorized in the written approval from the Division, including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

2. Standard Erosion and Sediment Control Practices

Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices:

- a. Design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
- b. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
- c. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
- d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.
- e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), Trout (Tr), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supercede all other sediment and erosion control requirements.

3. No Sediment and Erosion Control Measures in Wetlands or Waters

Sediment and erosion control measures should not be placed in wetlands or waters without prior approval by the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources or locally delegated program has released the project.

4. Construction Stormwater Permit NCG010000

Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an NPDES General stormwater permit (NCG010000) administered by the Division is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If your project is covered by this permit [applicable to construction projects that disturb one (1) or

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more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this

permit and monitoring report forms may be found at  
[http://h2o.enr.state.nc.us/su/Forms\\_Documents.htm](http://h2o.enr.state.nc.us/su/Forms_Documents.htm).

### 5. Construction Moratoriums and Coordination

If activities must occur during periods of high biological activity (i.e. sea turtle or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to lessen impacts on trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be implemented. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

Work within the twenty-five (25) designated trout counties or identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, USFWS, NMFS, and/or DMF personnel.

### 6. Work in the Dry

All work in or adjacent to stream waters shall be conducted in a dry work area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. Exceptions to this condition require submittal to, and approval by, the Division of Water Quality.

### 7. Riparian Area Protection (Buffer) Rules

Activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not), within the Neuse, Tar-Pamlico, Catawba, or Randleman (or any other basin with buffer rules), shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0233, .0259, .0250 and .0243, and shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices. All buffer rule requirements, including diffuse flow requirements, must be met.

### 8. Water Supply Watershed Buffers

The 30-foot wide vegetative buffer (low-density development) or the 100-foot wide vegetative buffer (high-density development) shall be maintained adjacent to all perennial waters except for allowances as provided in the Water Supply Watershed Protection Rules [15A NCAC 2B .0212 through .0215].

### 9. If concrete is used during the construction, then a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life/fish kills.

### 10. Compensatory Mitigation

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In accordance with 15A NCAC 2H .0506 (h), compensatory mitigation may be required for losses of 150 linear feet or more of streams and/or one (1) acre or more of total wetland impacts, including all impacts to 404 and non-404 wetlands (see attached examples "Wetland Impact Types and Compensatory Mitigation"). For linear, public transportation projects, impacts equal to or exceeding 150 linear feet per stream shall require mitigation.

Compensatory stream mitigation shall be required at a 1:1 ratio for all perennial and intermittent stream impacts in watersheds classified as ORW, HQW, Trout, WS-I and WS-II.

Buffer mitigation may be required for any project with Buffer Rules in effect at the time of application for buffer impacts resulting from activities classified as "Allowable with Mitigation" within the "Table of Uses" section of the Buffer Rules or require a variance under the Buffer Rules.

A determination of buffer, wetland and stream mitigation requirements shall be made for any General Water Quality Certification for this Nationwide Permit. Design and monitoring protocols shall follow the US Army Corps of Engineers Wilmington District *Stream Mitigation Guidelines* (April 2003), or its subsequent updates. Compensatory mitigation plans shall be submitted for written Division approval as required in those protocols. Alternatively, the Division will accept payment into an in-lieu fee program or credit purchase from a mitigation bank.

Finally, the mitigation plan must be implemented and/or constructed before any permanent building or structure on site is occupied. In the case of public road projects, the mitigation plan must be implemented before the road is opened to the public. Proof of payment to an in-lieu fee program or mitigation bank must be provided to the Division to satisfy this requirement.

11. For all activities requiring re-alignment of streams, a stream relocation plan must be included for written Division approval. Relocated stream designs should include the same dimensions, patterns and profiles as the existing channel (or a stable reference reach if the existing channel is unstable), to the maximum extent practical. The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30-foot wide wooded and an adjacent 20-foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating appropriate erosion control matting materials and seedling establishment is allowable. Rip-rap, A-Jacks, concrete, gabions or other hard structures may be allowed if it is necessary to maintain the physical integrity of the stream; however, the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage. Please note that if the stream relocation is conducted as a stream restoration as defined in the US Army Corps of Engineers Wilmington District, April 2003 *Stream Mitigation Guidelines* (or its subsequent updates), the restored length can be used as compensatory mitigation for the impacts resulting from the relocation.

## 12. Stormwater Management Plan Requirements

A. For applicants other than the North Carolina Department of Transportation, a Stormwater Management Plan in accordance with the version of *Stormwater Management Plan (SMP) Requirements for Applicants other than the North Carolina Department of Transportation* posted on the Division web site at the time of application shall be provided for any project that meets both of the following two criteria:

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- i. Requires a 404 Permit or Isolated Wetlands Permit (regardless of whether written authorization is required by the Division), AND
- ii. Contains one or more drainage areas that are anticipated to have impervious surface cover of equal to or greater than 24 percent. When drainage areas are difficult to delineate or when a pocket of high density exists within a drainage area, the Division shall use best professional judgment to apply the SMP requirement as appropriate.

B. For the North Carolina Department of Transportation, compliance with NCDOT's Individual NPDES permit NCS000250 shall serve to satisfy this condition.

### 13. Placement of Culverts and Other Structures in Waters and Wetlands

Culverts required for this project shall be designed and installed in such a manner that the original stream profiles are not altered and allow for aquatic life movement during low flows. Existing stream dimensions (including the cross section dimensions, pattern, and longitudinal

profile) must be maintained above and below locations of each culvert. Placement of culverts and other structures in waters and streams must be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than or equal to 48 inches, to allow low flow passage of water and aquatic life.

Installation of culverts in wetlands must ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in destabilization of streams or wetlands.

If site-specific topographic constraints preclude the ability to bury the culverts as described above and/or the applicant can demonstrate that burying the culvert would result in destabilization of the channel and head-cutting upstream, the Division will consider alternative design proposals.

Any riprap required for normal pipe burial and stabilization shall be buried such that the original stream elevation is restored and maintained.

The establishment of native, woody vegetation and other soft stream bank stabilization techniques must be used where practicable instead of riprap or other bank hardening methods.

14. Additional site-specific conditions may be added to the written approval letter for projects proposed under this General Permit in order to ensure compliance with all applicable water quality and effluent standards.
15. If an environmental document is required under the National or State Environmental Policy Act (NEPA or SEPA), then this General Permit is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse.
16. If this General Permit is used to access building sites, then all lots owned by the applicant must be buildable without additional impacts to streams or wetlands. The applicant is required to provide evidence that the lots are buildable without requiring additional impacts to wetlands, waters or buffers if required to do so in writing by the Division. For road

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construction purposes, this Permit shall only be utilized from natural high ground to natural high ground.

17. Deed notifications or similar mechanisms shall be placed on all retained jurisdictional wetlands, waters and protective buffers in order to assure compliance for future wetland, water and buffer impact. These mechanisms shall be put in place at the time of recording of the property, or of individual lots, whichever is appropriate. A sample deed notification can be downloaded from the 401/Wetlands Unit web site at <http://h2o.enr.state.nc.us/ncwetlands>. The text of the sample deed notification may be modified as appropriate to suit to a specific project.
18. When written authorization is required for use of this permit, upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return the certificate of completion attached to the approval. One copy of the certificate shall be sent to the DWQ Central Office in Raleigh at 1650 Mail Service Center, Raleigh, NC, 27699-1650.
19. This General Permit shall expire five (5) years from the date of issuance of the written letter from the Division. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this Permit.
20. The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Permit.

The Permit is not transferable to any person or entity except after notice to and written approval by the Director. The Director may require modification or revocation and reissuance of the Permit to change the name and incorporate such other requirements as may be necessary. A formal permit request must be submitted to the Division of Water Quality accompanied by the appropriate fee, documentation from both parties involved, and other supporting materials as may be appropriate. The approval of this request will be considered on its merits, and may or may not be approved.

The issuance of this Permit does not preclude the Permittee from complying with any and all statutes, rules, regulations, or ordinances which may be imposed by other governments agencies (local, state, and federal) which have jurisdiction. If any of those permits results in revisions to the plans, a permit modification must be submitted.

The permittee grants permission to DENR Staff to enter the property during business hours for the purposes of inspections and compliance review.

Non-compliance with or violation of the conditions herein set forth by a specific fill project may result in revocation of this General Permit for the project and may also result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity, if it is determined that the project is likely to have a significant adverse effect upon water quality including state or federally listed endangered or threatened aquatic species or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

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Public hearings may be held for specific applications or group of applications prior to a Permit decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: October 31, 2008

DIVISION OF WATER QUALITY

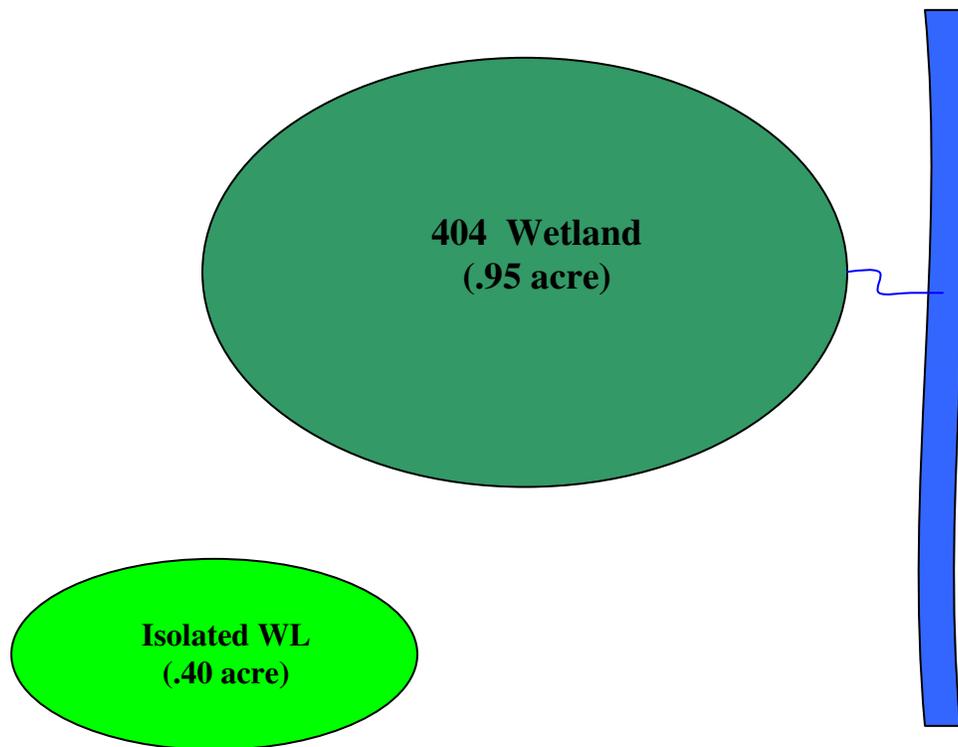
By

Coleen H. Sullins

Director

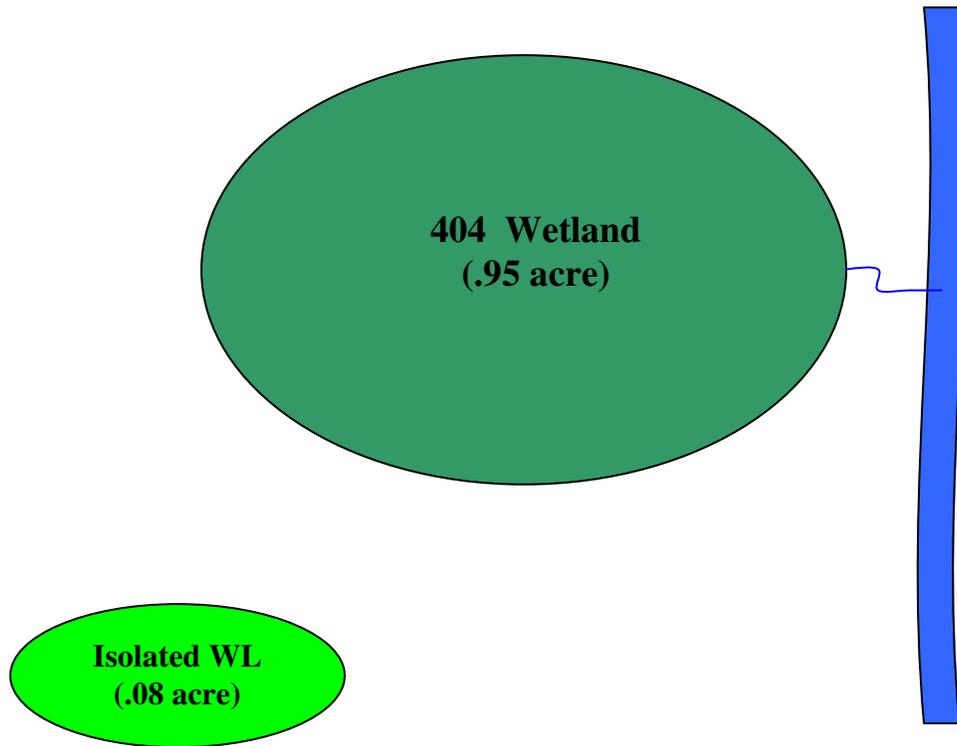
*History Note:* This Isolated Wetlands General Permit replaces the Isolated Wetlands General Permit (IWGP100000) issued on October 3, 2003. This General Permit is rescinded five (5) years from the effective date or unless otherwise rescinded or until deemed appropriate by the Director of the Division of Water Quality.

**Example 1: Wetland Impacts and Compensatory Mitigation**



**In this case, the applicant proposes to fill .95 acre of 404 wetlands and .40 acre of Isolated wetlands. Since the Isolated impact is over the IWGP10000 threshold, written concurrence is required for the Isolated fill, in addition to the 404 fill. The applicant should note both impacts on the PCN and seek the Isolated General Permit AND the appropriate General Certification. Compensatory mitigation is required since total wetland impacts exceed one (1) acre.**

**Example 2: Wetland Impacts and Compensatory Mitigation**



**In this case, the applicant proposes to fill .95 acre of 404 wetlands and .08 acre of Isolated wetlands. Since the Isolated impact is under the IWGP100000 threshold, written concurrence is not required for the Isolated fill. However, this impact should be noted on the PCN submitted for written concurrence on the 404 wetland fill. Compensatory mitigation is required since total wetland impacts exceed one (1) acre.**